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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR DISTRICT OF OREGON
PENDLETON DIVISION

GREATER HELLS CANYON COUNCIL, an
Oregon nonprofit corporation,
and **OREGON WILD**, an Oregon nonprofit
corporation,

Case Number: 2:17-cv-00843-SU

Plaintiffs,

**DECLARATION OF ROBERT
KLAVINS IN SUPPORT OF
PLAINTIFFS' MOTION FOR
INJUNCTION PENDING APPEAL**

v.

KRIS STEIN, District Ranger, Eagle Cap Ranger
District, Wallowa-Whitman National Forest, in
her official capacity; and **UNITED STATES
FOREST SERVICE**, an agency of the United
States Department of Agriculture,

Defendants,

and

WALLOWA COUNTY, a political subdivision
of the State of Oregon,

Defendant-Intervenor.

1 – DECLARATION OF ROBERT KLAVINS IN SUPPORT OF PLAINTIFFS'
MOTION FOR INJUNCTION PENDING APPEAL

I, Robert Klavins, declare as follows:

1. I have personal knowledge of the facts set forth below.
2. I reside in an unincorporated part of Wallowa County near the city of Enterprise, Oregon. I am the Northeast Oregon Field Coordinator for Oregon Wild. I am a long-time dues paying member of both Oregon Wild and the Greater Hells Canyon Council and am a member of the advisory board of the latter. Among my duties as Field Coordinator, I represent Oregon Wild on the Wallowa-Whitman National Forest and Umatilla National Forest Collaboratives, as well as review timber sales and other land management projects proposed on federal lands.
3. My wife and I own and operate Barking Mad Farm, a 42-acre working farm and Bed & Breakfast located less than 6 air-miles from the proposed Lostine Project area. Like many of our neighbors, we chose to live here largely because of the relatively intact landscapes, functioning ecosystems, and public lands in the area. These values are embodied by and supported by the congressionally designated Wild and Scenic Lostine River Canyon and other specially protected places like it.
4. I have visited the Wild and Scenic Lostine Canyon and adjacent lands including the Eagle Cap Wilderness and downstream portions of the Lostine River on many occasions for work as well as personal enjoyment. I have done so by myself, with family members, and with other visitors. I have done so with many motivations, including wildlife watching and monitoring, to find solitude and escape from more managed landscapes, to cool off on hot days, and to share the special place I am lucky enough to call home with others. I chose my career and my home because of places like (and including) the Lostine. I am honored to represent tens of thousands of citizens who share

my values. I intend to continue visiting the Canyon in years to come. My enjoyment will be severely diminished should the area be commercially logged as proposed.

5. The Lostine Canyon is the only place in Oregon where I can say with confidence that I have seen a rare American marten while visiting the area with a friend who was touring all of Oregon's Wilderness areas on the 50th anniversary of the Wilderness Act in 2014. I know that marten and other important wildlife rely on natural disturbances including wildfire, insects, and forest pathogens for the important role they play in forest mortality and renewal. While these forests and processes may look messy to some, they are important and irreplaceable features of the old forest habitat upon which rare and important wildlife like marten depend but which the Forest Service intends to commercially log as part of the Lostine Project. I continue to visit the Lostine in hopes of seeing marten and other native wildlife including wolverine, fisher, goshawk, threatened salmon, steelhead and bull trout, low-elevation bighorn sheep, wolves, bears, and birds, and to enjoy other values that are difficult – and sometimes impossible - to find elsewhere. Many of those values depend on unique characteristics that would be seriously and permanently degraded by the proposed Lostine logging project in a way that will not be remedied in my lifetime – if ever.

6. For similar reasons, the Lostine Canyon is a favorite destination for visitors from near and far. Our Bed & Breakfast hosts guests year round and is nearly fully booked from late spring through fall. We rely on these guests financially both as lodgers and as customers of our, and our neighbors', farm products. Our guests also provide economic benefits to the wider community. They shop in the stores of Joseph, visit the bronze foundries, buy art, pay for services, and eat in local restaurants.

7. Like us, some visitors stay, choosing to call the area home and contribute to the local community. Most of our guests come to experience the natural beauty of Wallowa County. This region's public lands are one of – if not the – most important features attracting visitors. There is a public perception that most of these lands are protected from logging and road-building. That is a major part of why people choose to stay in our area and with us. That includes the Lostine Canyon and its numerous popular recreation sites and trailheads into the Eagle Cap Wilderness. Some guests come specifically for the Lostine. For example, in June of 2017, we hosted guests returning to the Lostine Canyon area three times in a year specifically in hopes of seeing a Spruce Grouse. There are precious few other places in Oregon inhabited by this unique bird. On their third trip they were successful, and they have continued to return. Many guests have been extremely distressed when they have learned that the canyon is subject to logging. They have written letters, called legislators, and done more in hopes of stopping the destruction. That includes a regular visitor who, this spring, described the Lostine as her "spiritual home." In her late 70s, this woman first visited the Canyon as a baby and has visited it nearly every summer since. She was with her family and felt compelled to publicly write about her feelings noting the long history of people who have loved the place including Supreme Court Justice William O. Douglas who spent a great deal of time in the Lostine and championed its protection.

8. I am concerned that if the Lostine is logged as proposed, some guests will stop coming to our Bed and Breakfast, harming me, my family, and my community financially and in other ways. Whether some visitors choose to come to the Wallowa Valley and our bed & breakfast is significantly influenced by their perception of how nearby public lands

are managed. The decision by the Forest Service to commercially log the Wild and Scenic Lostine River Canyon has harmed that perception. In 2018, on the 50th anniversary of the Wild and Scenic River Act, organizations and agencies have been celebrating that important legislation locally and across the country. Guests cannot understand or believe the government intends to build roads and commercially log a Wild and Scenic River corridor at all – much less one with so many special values as the Lostine. If the project goes forward as proposed, the negative impact will be magnified. Our business and others will likely lose guests who will go elsewhere, seeking wild places that are valued and managed responsibly. This will harm us financially and in other ways. We enjoy the people who come here because they are drawn to places like the Lostine Canyon.

9. I believe the Lostine Project is an injustice to the Lostine Canyon, those who fought for its protection, and many of the people who - like me - use and enjoy the area. A large part of my love of this place is the biological diversity fostered by this intact low elevation moist, cool forest, one of the few available in the vicinity. The mixed conifer forests – relatively untouched due to the Forest Service’s light management approach until now – are filled with large trees, many over 21 inches diameter at breast height (“dbh”). The Lostine River Canyon is unique, hosting values including sensitive and globally rare plants, cultural sites, unique and rare wildlife (and habitat that could support wildlife that is or is likely currently extirpated; i.e., lynx, fisher, and grizzly bear), various forest types, fish, native forests and more. The Wild and Scenic Lostine River flows through the valley, surrounded on three sides by Oregon’s largest protected Wilderness. The only reason the long and narrow project area is not designated as Wilderness is to

accommodate an 11-mile long road that accesses recreational sites, trailheads and private in-holdings.

10. It is devastating for me to imagine the place if the Project goes through. In addition to the destruction to the forest from heavy logging and road building equipment tromping through the canyon forests, so many large and mature trees will be felled – enough to fill 800 trucks (or eight miles of logging trucks lines up end-to-end!). The impacts on fish and wildlife species will extend far beyond the boundaries of the project area.

11. Adjacent unprotected industrial timberlands have already been heavily logged and other nearby private lands are increasingly being developed. Large commercial public lands logging projects are being planned and implemented on hundreds of thousands of acres in the County and its National Forests. The Lostine Canyon is one of the few intact low elevation, cool moist forested habitats available in the vicinity.

12. Though my organization and I were excluded from meaningful involvement in the design of the project, I have visited the project area several times since the Forest Service marked the commercial logging units. The effects of the logging and road building, and thus the effects on my enjoyment of this Canyon, will be far worse than that described in the Lostine Project's Decision Memo and accompanying documents. First, the agency assured the public the commercial component of the Project would involve logging only trees up to 21 inches diameter at breast height ("dbh"). To do otherwise would violate the Forest Plan. Still, the Forest Service including a caveat that it would log trees greater than 21 inches dbh *if* they were "danger" trees; i.e., trees that *become* dangerous to persons only after an area becomes a worksite, the agency downplayed the extent of large

old trees it would deem “dangerous.”

13. Unfortunately, many large “danger” trees are marked for logging. These trees, often 100-200 year old grand firs and other species, are incredible wildlife habitat (present and future) and if this area was not a commercial timber unit, the trees would remain. They pose no safety concern now. Furthermore, whether they are actually a danger or risk once the area becomes a work site is extremely subjective and often overstated. Attached as Exhibit A are photographs of some of these “danger” trees in the commercial logging units. The first was taken on August 18, 2018 (I am in the picture). This tree, standing tall, was approximately 39-40 inches dbh. The next two photographs were taken by me on April 26, 2018. The tree on page 2 was 29 inches dbh and over 150 years old (I extracted a piece of core and counted the rings). I did not measure the tree on page three, but it was well over 21 inches dbh.

14. Sadly, the loss to wildlife habitat and my enjoyment is compounded by the fact that large “danger” trees are also being felled throughout the other 1,600 acres within the project area where the Forest Service is currently removing smaller trees to thin the forest fuel loads. In other words, the entire project area is and will be a work site where large, currently non-hazardous large trees will be felled under the guise of being dangerous to workers.

15. I also learned from my visits to the units that a startling number of “non-danger” trees between 21 and 25 inches dbh will likely be logged. The logging units are marked as “leave tree” units, meaning in this case all merchantable trees under 25 inches dbh that are *not* marked in orange paint will be felled. Although, in theory, no “non-danger” trees over 21 inches dbh will be logged, the Forest Service still required the “non-danger” trees

between 21-25 inches dbh to be marked in orange to ensure they are not mistakenly logged as under 21 inches dbh. Attached as Exhibit B are the marking guidelines the Forest Service provided to me for the commercial logging units (showing the “leave trees” up to 25 inches should be marked, presumably stopping at that point because it should be obvious larger trees are greater than 21 inches dbh). Attached as Exhibit C are two photographs taken by me on April 26, 2018 showing a 22 inch dbh tree not marked in orange that will surely be logged.

16. Even if the trees between 21 and 25 inches dbh are protected, post-logging, the forest will be very different – and in some cases not much of a forest at all. Attached as Exhibit D are photographs taken on April 26 and August 18, 2018, respectively, representative of many of the units’ marking. They illustrate how stripped the forest will be post-logging. I noticed no more than three trees marked in orange in either photograph. All the unmarked trees up to 25 inches dbh in the photographs will be logged.

17. The Forest Service’s decision to take out many of the large trees, remove half of the forest’s volume (likely more because danger trees were not considered in the agency’s calculations), and drastically open up the canopy (increasing sunlight to the forest floor) is going to dry out this forest leaving it far more vulnerable to uncharacteristic forest fire. Amazingly, during my visit to the Project area on August 18, 2018, when so many places in the Northwest and locally were extremely dry – and in some cases burning – the forest was cool and full of green, lush understory. Attached as Exhibit E are photographs of the understory taken on this day. The second photograph also shows one of only a few trees slated to remain in this area (see orange marking), yet

it seems unlikely this leaning tree will avoid being deemed “dangerous” once the area becomes a worksite, and logged.

18. I am not opposed to the agency removing some smaller ladder fuels and some other public safety activities (e.g. felling hazard trees along the road and within campsites), but taking out so many large trees is illogical in this moist forest type. I am dismayed for the wildlife, rare plants, and other important values that rely on and thrive in these cool and moist, closed-canopy forests adjacent to the beautiful Wild and Scenic Lostine River. My aesthetic, recreational, spiritual and economic interests will be irreparably harmed should the Forest Service commercially log the Lostine Canyon as authorized in the Lostine Project.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 25 day of September 2018.

s/ Robert Klavins

Robert Klavins